

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY)
LITIGATION)
_____)

MDL No. 2419
Dkt. No 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:)

All Cases)
)

NOTICE OF SUBPOENA *DUCES TECUM* TO THE
MASSACHUSETTS BOARD OF REGISTRATION IN PHARMACY

Defendants Specialty Surgery Center, PLLC ("SSC") and Kenneth Lister, M.D. ("Dr. Lister"), Kenneth Lister, M.D., PC (collectively "SSC Defendants"), pursuant to Rules 26 and 45 of the Federal Rules of Civil Procedure, hereby give notice to the Court and all parties of the issuance of a subpoena *duces tecum* to the Massachusetts Board of Registration in Pharmacy (see attached Exhibit 1) for the documents identified below:

1. All documents evidencing the Massachusetts Board of Registration in Pharmacy's processing of the Open Records Request for documents related to New England Compounding Center, Inc. ("NECC") made by undersigned counsel for the SSC Defendants in October 2012.¹
2. All documents that the Massachusetts Board of Registration in Pharmacy sent to undersigned counsel for the SSC Defendants in response to their October 2012 Open Records Request for documents related to NECC.²
3. A list or log of all Open Records Requests made to the Massachusetts Board of Registration in Pharmacy for information related to NECC prior to September 15, 2012.³

¹ This would include a copy of the request, any emails or internal communications regarding the request, the processing of the request, and the fulfilling of the request.

² In lieu of copies of the documents, the SSC Defendants would accept a list of the documents or any document that identifies what was sent to counsel for the SSC Defendants in response to their Open Records Request.

³ To the extent a list is not available, the SSC Defendants request any documents allowing them to determine

The SSC Defendants request, to the extent possible, that these documents be produced electronically either by posting to the US Legal document repository in use for this litigation or by producing the documents on a CD or flash drive.

Respectfully submitted,

GIDEON, COOPER & ESSARY, PLC

/s/ Chris J. Tardio

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***Attorneys for the Specialty Surgery
Center Defendants***

* Admitted pursuant to MDL Order No. 1.

** Admitted *pro hac vice*.

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be served electronically to the registered participants identified on the Notice of Electronic Filing and copies will be e-mailed or mailed via regular U.S. mail to those participants identified as unregistered this 26th day of February, 2016.

/s/ Chris J. Tardio

Chris J. Tardio

who/what entities made Open Records Requests for information related to New England Compounding Center, Inc. prior to September 15, 2012, when those requests were made, and what documents were provided to the requesting persons/entities.